

### REMARKS

The Examiner's attention to the present application is noted with appreciation. Applicant gratefully acknowledges the allowance of claim 33, as well as the allowability of claims 29-32 if rewritten to include all of the limitations of the base claim and any intervening claims. However, as discussed below, Applicant submits that all claims are allowable.

The Examiner rejected claims 21-28 under 35 U.S.C. 103(a) as being unpatentable over Rippere in view of Lee. Such rejection is respectfully traversed. Claim 21 is reproduced here for the Examiner's convenience:

21. A method of co-depositing particles comprising the steps of:

- suspending the particles in a suspension;
- applying at least one magnetic field to the particles in order to vary a co-deposition rate or location of the particles;
- co-depositing the particles along with at least one component of the suspension;
- and
- forming a desired structure.

The Examiner asserts that "by applying the magnetic field to provide a particular crystal orientation necessarily varies or changes the "point or extent in space" of the particles," referring to Lee. However, Lee does not vary a location of particles. The Examiner is confusing applying a magnetic field to *ions*, which Lee teaches, with applying a magnetic field to *particles*, which is presently claimed. In Lee, *ions* are plated under the influence of a magnetic field; see col. 5, lines 8-14. In contrast, the presently claimed particles are not the same as ions. It is well known that particles, including nanoparticles and microparticles, typically comprise nanocrystals, microcrystals, polycrystals, or even single crystals. In any case, a particle comprises more than one atom, whereas an ion is effectively a single atom. (This is reinforced in paragraphs [0058] - [0060] of the present invention, which discuss particle size. Ions cannot vary in size. Further, paragraph [0060] specifically cites 1-2 micron particles, and paragraph [0073] cites

particles in the few-micron to sub-micron range of diameters.) Thus, particles already comprise crystals, and those crystals have a given orientation. Lee teaches that ions are deposited in order to form crystals with a desired orientation. The teachings of Lee are thus inapplicable to the present invention, since the whole purpose of Lee is to create a plating which has a desired orientation, which would be impossible using the particles of the present invention, since the relative orientation of the already existing crystals cannot be changed.

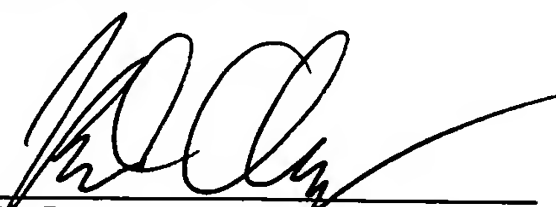
Further, the Examiner did not address the alternate limitation in present claim 21 which states that the magnetic field is applied in order to vary the codeposition *rate* of the particles, which is not taught or suggested anywhere in the cited art.

Thus, because none of the cited art teaches applying a magnetic field to *particles* to vary their codeposition rate or location, all claim limitations have not been taught or suggested by the combinations of the cited art, which is required for establishing *prima facie* obviousness per MPEP Section 2143.03.

The application therefore submits that the present application is in condition for allowance. Applicant notes that this paper is being filed on December 14, 2005, within two months of the date of the referenced Final Office Action. Applicant therefore respectfully requests the issuance of an Advisory Action allowing the present application per MPEP Section 706.07(f)(D)(1). If any issues remain the Examiner is cordially invited to telephone the undersigned agent for Applicant at the telephone number listed below. Authorization is given to charge payment of any fees required to Deposit Acct. 13-4213.

Respectfully submitted,

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